

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

AHMED ADEN ABDALLA,)	
)	
Plaintiff)	
)	No. 3:07-1076
V.)	Judge Trauger/Brown
)	
UNITED STATES OF AMERICA,)	
)	
Defendant)	

TO: The Honorable Aleta A. Trauger

REPORT AND RECOMMENDATION

For the reasons stated below, the Magistrate Judge recommends that the Government's motion to dismiss for lack of jurisdiction (Docket Entry 7) be granted.

I. Background

The Petitioner, acting *pro se*, filed this complaint on October 31, 2007 (Docket Entry 1). In his complaint, he alleges that he has properly applied for naturalization with the United States Citizenship and Immigration Service (USCIS). He alleges that he was interviewed on April 17, 2006, and that at that time he passed the requisite English history and government tests. He further alleges that it has been more than 180 days since this examination and that, contrary to 8 C.F.R. 31.5, the USCIS has not acted on his application. This C.F.R. allows an applicant to apply for relief to the United States District Court having jurisdiction over the district in which he resides, if the service does not take action within 120 days. In paragraph 5 of his complaint, he

requests that the Court either naturalize him or remand the matter to the USCIS with instructions to naturalize him within a specified and limited time frame.

The Government, rather than answering, filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(h)(3) (Docket Entry 7). In this motion, the Government points out that the Plaintiff's application for naturalization has now been processed and notice has been sent scheduling him for the naturalization ceremony on January 25, 2008. The Government contends that in view of this action, the complaint is moot and should be dismissed.

This matter was referred to the undersigned for a report and recommendation on any dispositive motions (Docket Entry 3).

II. Legal Discussion

The Plaintiff in this matter has not responded to the motion to dismiss and, accordingly, under the Local Rules, the Court may take the motion as unopposed.

Additionally, the Plaintiff has not filed any documents with the Court to contradict the Government's position that he was scheduled for naturalization on January 25, 2008. The Court can only assume that if the naturalization process did not go through, the Plaintiff would have so notified the Court.

It appears that the Government is correct, therefore, that the Plaintiff has received the relief he sought-

naturalization. Accordingly, this case is moot and should be dismissed. *Gottfried v. Medical Planning Services, Inc.*, 287 F.3d 684, 693 (6th Cir. 2002).

III. Recommendations

For the reasons stated above, the Magistrate Judge recommends that this case be dismissed as moot.

Under Rule 72(b) of the Federal rules of civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140 106 S.Ct. 466, 88 L.Ed.2d 435 (1985), *Reh'g denied*, 474 U.S. 1111 (1986).

ENTERED this 6th day of February, 2008.

/s/ Joe B. Brown

Joe B. Brown

United States Magistrate Judge